

BEFORE THE MINNESOTA

BOARD OF DENTISTRY

In the Matter of
Edward M. Farsht, D.D.S.
License No. D7415

**STIPULATION AND ORDER FOR
LIMITED AND CONDITIONAL LICENSE**

The Minnesota Board of Dentistry ("Board") is authorized pursuant to Minn. Stat. ch. 150A, § 214.10, and § 214.103 to license and regulate dentists, to refer complaints against dentists to the Attorney General for investigation, and to take disciplinary action when appropriate.

The Board received a complaint(s) against Edward M. Farsht, D.D.S. ("Licensee"). The Board's Complaint Committee ("Committee") reviewed the complaint(s) and referred the matter to the Minnesota Attorney General's Office for investigation. Following the investigation, the Committee held a conference with Licensee and his attorney, Kent G. Harbison, on September 19, 2008. The Committee and Licensee have agreed that the matter may now be resolved by this stipulation and order.

STIPULATION

IT IS HEREBY STIPULATED AND AGREED by and between Licensee and the Committee as follows:

A. Jurisdiction. Licensee holds a license to practice dentistry in the State of Minnesota from the Board and is subject to the jurisdiction of the Board with respect to the matters referred to in this stipulation. Licensee states that Licensee does not hold a license to practice dentistry in any other jurisdiction and does not hold any other professional or occupational licenses.

B. Facts. This Stipulation is based on the following Committee findings:

1. Licensee was licensed to practice dentistry in the State of Minnesota on June 1, 1969.

2. In September 1999, Licensee entered into an Agreement for Corrective Action with the Complaint Committee to remediate substandard infection control and safety and sanitary conditions. In March 2000, Licensee completed the requirements of the Agreement for Corrective Action.

3. Between October 2006 and December 2008, the Board received eight complaints about Licensee's practice. The Committee investigated these complaints and determined that Licensee failed to meet accepted standards of practice for diagnostic, restorative, periodontal, endodontic, and prosthodontic treatment, and failed to meet accepted standards for radiographic diagnosis, safety and sanitary conditions, billing, recordkeeping and professional conduct.

4. Licensee failed to meet accepted standards of practice in the following areas:

- a. Diagnostic, restorative and periodontal treatment - patient #1;
- b. Diagnostic, restorative, periodontal and endodontic treatment - patient #2;
- c. Prosthodontic treatment - patients #3, 4, 5 and 9;
- d. Diagnostic, restorative, periodontal and prosthodontic treatment - patients #6 and 7;
- e. Diagnostic, periodontal and prosthodontic treatment - patients #8 and 10;
- f. Diagnostic, periodontal and endodontic treatment - patients #15, 16 and 18; and
- g. Diagnostic and periodontal treatment - patients #11, 12, 13, 14, 17, 19 and 20.

Substandard Safety and Sanitary Conditions

5. Licensee failed to meet accepted standards for infection control procedures and safety and sanitary conditions for a dental office and failed to comply with the applicable infection control recommendations and guidelines of the Centers for Disease Control (“CDC”).

Substandard Radiographic Diagnosis

6. For patients 10, 14, 15, 16, 19, and 20, Licensee failed to obtain adequate radiographs to properly diagnose for treatment of the patients’ existing oral health status. The radiographs taken on these patients were either insufficient in quantity for diagnostic purposes or of non-diagnostic quality.

Improper Billing

7. Licensee improperly billed patients, third-party payers, and others for services not provided.

Substandard Recordkeeping

8. Licensee failed to make or maintain adequate records for patients 1 through 20.

VIOLATIONS AND DISCIPLINARY ACTION

C. Violations. The Committee concludes that the practices described above constitute violations of Minn. Stat. § 150A.08, subd. 1(6), and Minn. R. 3100.6200 A; Minn. R. 3100.6200 B; Minn. R. 3100.6200 D; Minn. R. 3100.6200 H; Minn. Stat. § 150A.08, subd. 1(6), (10), and (13), and Minn. R. 3100.6200 K and 3100.6300; and Minn. Stat. § 150A.08, subd. 1(13), and Minn. R. 3100.9600.

D. Disciplinary Action. Licensee and the Committee recommend that the Board issue an order which places LIMITATIONS and CONDITIONS on Licensee's license to practice dentistry in the State of Minnesota as follows:

1. Stayed Suspension. Licensee's license to practice dentistry in the State of Minnesota is hereby SUSPENDED. The suspension is STAYED conditioned on Licensee's compliance with all of the limitations and conditions set forth in paragraph 2. below.

2. Limitations and Conditions of Stayed Suspension. Licensee and the Committee recommend that the Board issue an order which places LIMITATIONS and CONDITIONS on Licensee's license to practice dentistry in the State of Minnesota as follows:

LIMITATIONS

Licensee's license shall be subject to the following limitations:

a. Fixed Prosthodontic Treatment. Licensee is prohibited from providing fixed prosthodontic treatment to any patient until he successfully completes the fixed prosthodontic course described below and submits the required written report to the Committee. At that time, Licensee may petition the Committee for removal of the limitation.

b. Endodontic Treatment. Licensee is prohibited from providing endodontic treatment on any posterior teeth. Licensee may only perform endodontic treatment on anterior teeth, cuspid to cuspid.

c. Periodontal Treatment. Licensee is prohibited from providing primary periodontal treatment, as defined by the CDT code, to any patient.

CONDITIONS

Licensee's license shall be subject to the following conditions:

a. Monitoring Program. For a period of 24 months (hereafter the "Effective Period"), Licensee agrees to contract with Affiliated Monitors, Inc., or a comparable monitoring company (hereafter the "evaluator"), for monitoring services.

Within 90 days of the effective date of this Order, Licensee agrees to contract with Affiliated Monitors, Inc., or a comparable monitoring company, or an actively practicing dentist licensed by the State of Minnesota (hereafter the "evaluator") for one-on-one monitoring and consultative services. **The evaluator must be approved in advance by the Committee.** To obtain preapproval from the Committee, Licensee must submit in writing to the Committee for review and approval the names of one or more evaluators for consideration.

Prior to establishing a contract with the evaluator, Licensee must provide the evaluator with a copy of this stipulation and order. Licensee's signature on this stipulation and order constitutes authorization for the evaluator to provide the Committee with copies of all written monitoring reports. Licensee's signature also authorizes the Committee to communicate with the evaluator before, during, and after the monitoring of Licensee's comprehensive clinical evaluation about Licensee's needs, performance, and progress.

Licensee shall bear all costs associated with and pursuant to the contract agreement with the evaluator including, but not limited to, monitoring evaluations, preparation of reports, and complying with the evaluator's recommendations.

During the Effective Period, Licensee shall contract with and engage the services of the evaluator to perform monitoring of his clinical practice and conduct a review of his recordkeeping, billing, and insurance coding practices, as described below:

1) On-site Observation. Within 45 days from the selection of the evaluator by the Board and continuing thereafter on a quarterly basis throughout the Effective Period, the evaluator will conduct on-site four-hour observations of Licensee's clinical competence when rendering dental services to patients at Licensee's practice location.

2) Evaluation of Patient Records. Within 45 days from the selection of the evaluator by the Board and continuing thereafter on a quarterly basis throughout the Effective Period, the evaluator will randomly select ten (10) current patient records and conduct a comprehensive clinical evaluation of these patient records. The comprehensive clinical evaluation shall focus on Licensee's clinical competence when providing dental services to patients and a complete review of his recordkeeping, billing, and insurance coding practices.

b. Coursework. Licensee shall successfully complete the coursework described below. **All coursework must be approved in advance by the Committee.** Licensee is responsible for locating, registering for, and paying for all coursework taken pursuant to this stipulation and order. When Licensee attends an undergraduate or graduate dental school course, Licensee must provide each instructor with a copy of this stipulation and order prior to commencing a course. Licensee's signature on this stipulation and order constitutes authorization for the course instructor(s) to provide the Committee with a copy of the final examination for any course Licensee takes. Licensee's signature also authorizes the Committee to communicate with the instructor(s) before, during, and after Licensee takes the course about Licensee's needs, performance, and progress. None of the coursework taken pursuant to this stipulation and order may be used by Licensee to satisfy any of the continuing dental education/professional development requirements of Minn. R. 3100.5100, subp. 2. The coursework is as follows:

1) Fixed Prosthodontics. Within twelve months of the effective date of this Order, Licensee shall successfully complete a minimum of four full days of one-on-one instruction in fixed prosthodontics through an accredited dental institution or an accredited or other program approved by the Board. The fixed prosthodontic instruction must have a hands-on component and focus on crowns and bridges including information on diagnosis, treatment planning, tooth preparation, gingival margin integrity, impressions, and finishing techniques.

2) Periodontics. Within six months of the effective date of this order, Licensee shall successfully complete a multi-day continuing education course in periodontics at an accredited dental institution. The periodontic instruction must have a hands-on component and focus on periodontal diagnosis, treatment planning, instrumentation, probing, proper recordkeeping, and specialist referral.

3) Infection Control. Within six months of the effective date of this order, Licensee shall successfully complete the eight-credit self-study infection control course entitled “Effective Infection Control: A Training Program for Your Dental Office,” sponsored by the American Dental Association, and focusing on the most current Guidelines for Infection Control in Dental Health-Care Settings, or an equivalent infection control course. In addition, the infection control course shall have a testing component which must be successfully completed by Licensee and a copy submitted to the Committee.

4) Treatment Planning / Recordkeeping. Within 12 months of the effective date of this order, Licensee shall personally attend and successfully complete the treatment planning / recordkeeping course entitled “Dental Patient Management: Dental Records and Treatment Planning Fundamentals” offered through the University of Minnesota School of Dentistry, or an equivalent course.

5) Dental Restorations. Within 12 months of the effective date of this order, Licensee shall personally attend and successfully complete a minimum of six hours in general dental restorative care instruction. The restorative instruction must include a hands-on component.

6) Professional Boundaries and Ethics. Within one year of the effective date of this order, Licensee shall arrange to enroll in the individualized professional boundaries and ethics training taught by John Hung, Ph.D., L.P., or equivalent training approved in advance by the Committee. Successful completion of the boundaries course shall be determined by the Committee based on input from Dr. Hung or the instructor of the equivalent course.

c. Written Reports and Information. Licensee shall submit or cause to be submitted to the Board reports on all coursework. All reports and information are subject to approval by the Committee. Within 30 days of completing any coursework, Licensee shall submit to the Board (1) a transcript or other documentation verifying that Licensee has successfully completed the course, if the course is a graduate or undergraduate dental school course; (2) a copy of all materials used and/or distributed in the course; and (3) a written report summarizing how Licensee has implemented this knowledge into his practice. Licensee's reports shall be typewritten in Licensee's own words, double-spaced, at least two pages and no more than three pages in length, and shall list references used to prepare the report.

d. Office Inspections.

1) Infection Control Inspection. Licensee shall fully cooperate with an unannounced office visit by a representative of the Board conducted for the purpose of inspecting the safety and sanitary conditions present in Licensee's office. The Board's representative shall conduct the inspection during normal business hours. The Board's

representative shall complete at least one unannounced office visit pursuant to this paragraph; additional visits shall be at the discretion of the Committee.

2) Recordkeeping Inspection. Licensee shall cooperate with at least one unannounced office visit during normal business hours by a representative of the Board; additional visits shall be at the discretion of the Committee. The representative shall randomly select, remove, and make copies of original patient records, including radiographs, to provide to the Committee for its review of Licensee's recordkeeping practices.

e. Other Conditions.

1) Licensee shall comply with the laws or rules of the Board of Dentistry. Licensee agrees that failure to comply with the Board's laws or rules shall be a violation of this stipulation and order.

2) Licensee shall fully and promptly cooperate with the Board's reasonable requests concerning compliance with this stipulation and order, including requests for explanations, documents, office inspections, and/or appearances at conferences. Minnesota Rules 3100.6350 shall be applicable to such requests.

3) In Licensee's practice of dentistry, Licensee shall comply with the most current infection control requirements of Minn. R. 3100.6300 and 6950.1000 through 6950.1080 and with the Centers for Disease Control and Prevention, Public Health Service, United States Department of Health and Human Services, *Guidelines for Infection Control in Dental Health-Care Settings – 2003*, MORBIDITY AND MORTALITY WEEKLY REPORT, December 19, 2003, at 1.

4) In the event Licensee should leave Minnesota to reside, Licensee shall notify the Board in writing of the new location within five days. Periods of

residency outside of Minnesota will not apply to the reduction of any period of Licensee's discipline in Minnesota.

E. Removal of Stayed Suspension. Licensee may petition to have the stayed suspension removed from Licensee's license at any regularly scheduled Board meeting provided that Licensee has complied with all the conditions of his stayed suspension. Moreover, Licensee's petition must be received by the Board at least 30 days prior to the Board meeting. Licensee has the burden of proving that he has complied with the conditions of this stipulation and order and that he is qualified to practice without a stayed suspension. Licensee's compliance with the foregoing requirements does not create a presumption that the stayed suspension should be removed. Upon consideration of the evidence submitted by Licensee or obtained through Board investigation, the Board may remove, amend, or continue the stayed suspension imposed by this order.

CONSEQUENCES FOR NONCOMPLIANCE OR ADDITIONAL VIOLATIONS

F. Noncompliance With Requirements for Stayed Suspension. If the Complaint Committee has probable cause to believe Licensee has failed to comply with or has violated any of the requirements for staying the suspension above, the Complaint Committee may remove the stayed suspension pursuant to the procedures outlined below.

The removal of the stayed suspension shall take effect upon service of an Order of Removal of Stayed Suspension ("Order of Removal"). Licensee agrees that the Complaint Committee is authorized to issue an Order of Removal, which shall remain in effect and shall have the full force and effect of an order of the Board until the Board makes a final determination or until the complaint is dismissed and the order is rescinded by the Complaint Committee. The Order of Removal shall confirm the Complaint Committee has probable cause to believe Licensee has failed to comply with or has violated one or more of the requirements for

staying the suspension of Licensee's license. Licensee further agrees an Order of Removal issued pursuant to this paragraph shall be deemed a public document under the Minnesota Government Data Practices Act. Licensee waives any right to a conference or hearing before removal of the stayed suspension.

The Complaint Committee shall schedule the hearing to be held within 60 days of service of the Order of Removal.

G. Additional Discipline for Violation of Order. Violation of this stipulation and order is a violation of Minn. Stat. § 150A.08, subd. 1(13). If Licensee violates this stipulation and order, Minn. Stat. ch. 150A, or Minn. R. ch. 3100, the Board may impose additional discipline pursuant to the following procedure:

1. The Committee shall schedule a hearing before the Board. At least ten days prior to the hearing, the Committee shall mail Licensee a notice of the violation alleged by the Committee and of the time and place of the hearing. Within seven days after the notice is mailed, Licensee shall submit a response to the allegations. If Licensee does not submit a timely response to the Board, the allegations may be deemed admitted.

2. At the hearing before the Board, the Committee and Licensee may submit affidavits made on personal knowledge and argument based on the record in support of their positions. The evidentiary record before the Board will be limited to such affidavits and this stipulation and order. Licensee waives a hearing before an administrative law judge and waives discovery, cross-examination of adverse witnesses, and other procedures governing administrative hearings or civil trials.

3. At the hearing, the Board will determine whether to impose additional disciplinary action, including additional conditions or limitations on Licensee's practice, or suspension or revocation of Licensee's license.

4. The Committee may attempt to resolve an alleged violation of the stipulation and order through the procedures of Minn. Stat. § 214.103, subd. 6. Nothing herein limits (1) the Committee's right to initiate a proceeding against Licensee pursuant to Minn. Stat. ch. 14, or (2) the Committee's and the Board's right to temporarily suspend Licensee pursuant to Minn. Stat. § 150A.08, subd. 8, based on a violation of this stipulation and order or based on conduct of Licensee before or after the date of this stipulation which is not specifically referred to in paragraph B. above.

H. Waiver of Licensee's Rights. For the purpose of this stipulation, Licensee waives all procedures and proceedings before the Board to which Licensee may be entitled under the Minnesota and United States constitutions, statutes, or the rules of the Board, including the right to dispute the facts contained in this stipulation and order and to dispute the adequateness of discipline in a contested proceeding pursuant to Minn. Stat. ch. 14. Licensee agrees that upon the application of the Committee without notice to or an appearance by Licensee, the Board may issue an order imposing the discipline specified herein. The Committee may participate in Board deliberations and voting concerning the stipulation. Licensee waives the right to any judicial review of the order by appeal, writ of certiorari, or otherwise.

I. Board Rejection of Stipulation and Order. In the event the Board in its discretion does not approve this stipulation or a lesser remedy than specified herein, this stipulation and order shall be null and void and shall not be used for any purpose by either party hereto. If this stipulation is not approved and a contested case proceeding is initiated pursuant to Minn. Stat. ch. 14 and section 150A.08, Licensee agrees not to object to the Board's initiation of the proceeding and hearing the case on the basis that the Board has become disqualified due to its review and consideration of this stipulation and the record.

J. Record. This stipulation, related investigative reports and other documents shall constitute the entire record of the proceedings herein upon which the order is based. The investigative reports, other documents, or summaries thereof may be filed with the Board with this stipulation. Any reports or other material related to this matter which are received after the date the Board approves the stipulation and order shall become a part of the record and may be considered by the Board in future aspects of this proceeding.

K. Data Classification. Under the Minnesota Data Practices Act, this stipulation and order is classified as public data. Minn. Stat. § 13.41, subd. 4. All documents in the record shall maintain the data classification to which they are entitled under the Minnesota Government Data Practices Act, Minn. Stat. ch. 13. They shall not, to the extent they are not already public documents, become public merely because they are referenced herein. Pursuant to federal rule (45 C.F.R. parts 60 and 61), the Board must report the disciplinary action contained in this stipulation and order to the National Practitioner Data Bank and the Healthcare Integrity and Protection Data Bank.

L. Entire Agreement. Licensee has read, understood, and agreed to this stipulation and is freely and voluntarily signing it. This stipulation contains the entire agreement between the parties hereto. Licensee is not relying on any other agreement or representations of any kind, verbal or otherwise.

M. Service and Effective Date. If approved by the Board, a copy of this stipulation and order shall be served personally or by first class mail on Licensee. The order shall be effective and deemed issued when it is signed by the President or Vice-President of the Board.

LICENSEE

Edward M. Farsht
EDWARD M. FARSH, D.D.S.

Dated: 3/16/2010, 2009

COMPLAINT COMMITTEE

By:

Marshall Shragg
MARSHALL SHRAGG
Executive Director

Dated: MARCH 26TH, 2009 ms
2010

ORDER

Upon consideration of the foregoing stipulation and based upon all the files, records, and proceedings herein,

The terms of the stipulation are approved and adopted, and the recommended disciplinary action set forth in the stipulation is hereby issued as an order of this Board SUSPENDING Licensee's license and STAYING the suspension so long as Licensee complies with the LIMITATIONS and CONDITIONS placed on Licensee's license effective this 16 day of April, 2010.

MINNESOTA BOARD
OF DENTISTRY

By:

Joan A. Sheppard D.D.S.
JOAN SHEPPARD, D.D.S.
President